

REMARKS

Applicant has considered the Final Office Action of October 21, 2005. Claims 1, 2, and 7-10 have been amended. Claim 18 has been cancelled. New claims 19-22 have been added. Claims 1-15 and 19-22 are pending. Reconsideration of this application is respectfully requested.

I. The claims are not anticipated by Samuelson.

The rejection of Claims 1 and 7-10 under 35 U.S.C. 102(b) as being anticipated by Samuelson was maintained by the Examiner. Applicant traverses the rejection.

In the prior response, Applicant argued that only conservative substitution was intended. The Examiner did not find this argument persuasive because the claims did not recite only conservative substitution. Claims 7-10 have been amended so the recitations directed to conservative substitution, addition, or deletion have been removed. Therefore, these peptides do not read on the sequences taught by Samuelson. With regard to the previous prior art rejections, Applicant notes that Yallampali does not teach these peptides either. Claim 1 has been amended to recite bradykinin-induced contraction. Samuelson discusses the treatment of spontaneous contraction and therefore does not anticipate claim 1.

Applicant requests withdrawal of the 102(b) rejection based on Samuelson.

II. The claims meet the written description requirement.

Claims 1-15 were rejected under 35 U.S.C. § 112, ¶ 1, as failing the written description requirement. Applicant traverses the rejection.

The Examiner stated that the recitation "caused by an inflammatory mediator" constituted new matter. He also stated that there was no support that adrenomedullin (AM) is to be administered alone without combining CGRP. These recitations have been deleted from claims 1 and 2. Therefore, this rejection is moot.

Applicant requests withdrawal of the written description rejection.

III. The claims are definite.

Claims 1-15 were rejected under 35 U.S.C. § 112, ¶ 2, as indefinite. Applicant traverses the rejection.

The Examiner stated that the recitation "caused by an inflammatory mediator" was indefinite. This recitation has been deleted from claims 1 and 2. Therefore, this rejection is moot.

Applicant requests withdrawal of the indefiniteness rejection.

IV. New claims have been added.

New claims 19-22 have been added. Support for these claims can be found on page 11, lines 5-14, of the specification. With respect to these claims, please note again *Physiol. Rev.*, 84, pp. 90-934, 2004, a copy of which was submitted by Applicant in the response of January 25, 2004. On the last line of the right-hand column on page 905, the publication describes the homology between the active sites of adrenomedullin (AM) and CGRP as only approximately 25%. Based on this statement, CGRP cannot anticipate or render obvious the new claims. The publication also describes AM and CGRP as expressed in different levels in different organ systems. Applicant submits that it is therefore clear that AM and CGRP are different proteins and are not functionally or structurally equivalent.

In the paragraph beginning at page 10, line 23, of the specification (which begins with "AM used in the present invention..."), Applicant has defined the term "adrenomedullin". While it may be defined differently from that which is conventionally known in the art, this is because Applicant uses the term to also include some analogs mentioned by the Examiner. Applicant may be his own lexicographer and in this case, uses one term, "adrenomedullin", to convey multiple meanings. The definition provided in the specification controls the interpretation of the claims. MPEP § 2111.01(III); *Phillips v. AWH*, (Fed. Cir. July 12, 2005) (*en banc*) ("... the specification may reveal a special definition given to a claim term by the patentee that differs from the meaning it would otherwise possess. In such cases, the inventor's lexicography governs."). Applicants also note that here, the term is defined and used in a manner such that one skilled in the art would understand what subject matter is being claimed. The claims are therefore definite. Applicant requests withdrawal of the rejection based on § 112, ¶ 2.

CONCLUSION

In view of the above amendments and arguments, it is respectfully submitted that pending claims 1-15 and 19-22 are now in condition for allowance. Withdrawal of the rejections and issuance of a Notice of Allowance is requested.

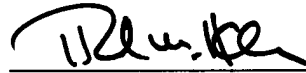
In the event the Examiner considers personal contact advantageous to the disposition of this case, he is hereby authorized to contact Richard M. Klein at the telephone number listed below.

Respectfully submitted,

FAY, SHARPE, FAGAN,
MINNICH & McKEE, LLP

February 20, 2006

Date




Richard M. Klein
Reg. No. 33,000
1100 Superior Avenue
7th Floor
Cleveland, Ohio 44114-2579
(216) 861-5582

Certificate of Mailing

Under 37 C.F.R. § 1.8, I certify that this Amendment is being

- ☒ deposited with the United States Postal Service as First Class mail, addressed to: MAIL STOP AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.
- ☐ transmitted via facsimile in accordance with 37 C.F.R. § 1.8 on the date indicated below.
- ☐ deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated below and is addressed to: MAIL STOP AF, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date
February 20, 2006

Signature

Printed Name
Lynda S. Kalemba